



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

**HB4454**

Introduced 1/30/2012, by Rep. Angelo Saviano

#### SYNOPSIS AS INTRODUCED:

225 ILCS 85/35.7	from Ch. 111, par. 4155.7
225 ILCS 90/25	from Ch. 111, par. 4275
225 ILCS 106/140	
225 ILCS 315/24	from Ch. 111, par. 8124
225 ILCS 745/125	

Amends the Pharmacy Practice Act, the Illinois Physical Therapy Act, the Respiratory Care Practice Act, the Illinois Landscape Architecture Act of 1989, and the Professional Geologist Licensing Act. Removes the requirement that at least one member of the Board shall attend each hearing in any action for refusal to issue or renew a license or to discipline a licensee. Effective immediately.

LRB097 16322 CEL 61476 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Pharmacy Practice Act is amended by changing  
5 Section 35.7 as follows:

6 (225 ILCS 85/35.7) (from Ch. 111, par. 4155.7)

7 (Section scheduled to be repealed on January 1, 2018)

8 Sec. 35.7. Notwithstanding the provisions of Section 35.6  
9 of this Act, the Director shall have the authority to appoint  
10 any attorney duly licensed to practice law in the State of  
11 Illinois to serve as the hearing officer in any action before  
12 the Board for refusal to issue, renew, or discipline of a  
13 license or certificate. The Director shall notify the Board of  
14 any such appointment. The hearing officer shall have full  
15 authority to conduct the hearing. ~~There shall be present at~~  
16 ~~least one member of the Board at any such hearing.~~ The hearing  
17 officer shall report his findings of fact, conclusions of law  
18 and recommendations to the Board and the Director. The Board  
19 shall have 60 days from receipt of the report to review the  
20 report of the hearing officer and present their findings of  
21 fact, conclusions of law, and recommendations to the Director.  
22 If the Board fails to present its report within the 60 day  
23 period, the respondent may request in writing a direct appeal

1 to the Secretary, in which case the Secretary shall, within 7  
2 calendar days after the request, issue an order directing the  
3 Board to issue its findings of fact, conclusions of law, and  
4 recommendations to the Secretary within 30 calendar days after  
5 such order. If the Board fails to issue its findings of fact,  
6 conclusions of law, and recommendations within that time frame  
7 to the Secretary after the entry of such order, the Secretary  
8 shall, within 30 calendar days thereafter, issue an order based  
9 upon the report of the hearing officer and the record of the  
10 proceedings or issue an order remanding the matter back to the  
11 hearing officer for additional proceedings in accordance with  
12 the order. If (i) a direct appeal is requested, (ii) the Board  
13 fails to issue its findings of fact, conclusions of law, and  
14 recommendations within the 30-day mandate from the Secretary or  
15 the Secretary fails to order the Board to do so, and (iii) the  
16 Secretary fails to issue an order within 30 calendar days  
17 thereafter, then the hearing officer's report is deemed  
18 accepted and a final decision of the Secretary. Notwithstanding  
19 any other provision of this Section, if the Secretary, upon  
20 review, determines that substantial justice has not been done  
21 in the revocation, suspension, or refusal to issue or renew a  
22 license or other disciplinary action taken as the result of the  
23 entry of the hearing officer's report, the Secretary may order  
24 a rehearing by the same or other examiners. If the Secretary  
25 disagrees with the recommendation of the Board or the hearing  
26 officer, the Secretary may issue an order in contravention of

1 the recommendation.

2 (Source: P.A. 95-689, eff. 10-29-07.)

3 Section 10. The Illinois Physical Therapy Act is amended by  
4 changing Section 25 as follows:

5 (225 ILCS 90/25) (from Ch. 111, par. 4275)

6 (Section scheduled to be repealed on January 1, 2016)

7 Sec. 25. Appointment of a Hearing Officer. The Director  
8 shall have the authority to appoint any attorney duly licensed  
9 to practice law in the State of Illinois to serve as the  
10 hearing officer in any action for refusal to issue, renew or  
11 discipline of a license or permit. The hearing officer shall  
12 have full authority to conduct the hearing. ~~At least one member~~  
13 ~~of the Board shall attend each hearing.~~ The hearing officer  
14 shall report his findings and recommendations to the Board and  
15 the Director. The Board shall have 60 days from receipt of the  
16 report to review the report of the hearing officer and present  
17 their findings of fact, conclusions of law and recommendations  
18 to the Director. If the Board fails to present its report  
19 within the 60 day period, the Director shall issue an order  
20 based on the report of the hearing officer. If the Director  
21 determines that the Board's report is contrary to the manifest  
22 weight of the evidence, he may issue an order in contravention  
23 of the Board's report.

24 (Source: P.A. 94-651, eff. 1-1-06.)

1           Section 15. The Respiratory Care Practice Act is amended by  
2 changing Section 140 as follows:

3           (225 ILCS 106/140)

4           (Section scheduled to be repealed on January 1, 2016)

5           Sec. 140. Appointment of a hearing officer. The Director  
6 has the authority to appoint an attorney, licensed to practice  
7 law in the State of Illinois, to serve as a hearing officer in  
8 any action for refusal to issue or renew a license or to  
9 discipline a licensee. The hearing officer has full authority  
10 to conduct the hearing. ~~At least one member of the Board shall~~  
11 ~~attend each hearing.~~ The hearing officer shall report his or  
12 her findings of fact, conclusions of law, and recommendations  
13 to the Board and to the Director. The Board shall have 60  
14 calendar days from receipt of the report to review it and to  
15 present its findings of fact, conclusions of law, and  
16 recommendations to the Director. If the Board does not present  
17 its report within the 60 day period, the Director may issue an  
18 order based on the report of the hearing officer. If the  
19 Director disagrees with the recommendation of the Board or the  
20 hearing officer, the Director may issue an order in  
21 contravention of the recommendation.

22           The Director shall promptly provide a written explanation  
23 to the Board on any such disagreement.

24           (Source: P.A. 89-33, eff. 1-1-96.)

1           Section 20. The Illinois Landscape Architecture Act of 1989  
2 is amended by changing Section 24 as follows:

3           (225 ILCS 315/24) (from Ch. 111, par. 8124)

4           (Section scheduled to be repealed on January 1, 2020)

5           Sec. 24. Appointment of a hearing officer. The Secretary  
6 has the authority to appoint any attorney licensed to practice  
7 law in the State of Illinois to serve as the hearing officer in  
8 any action for refusal to issue or renew a license or permit or  
9 to discipline a licensee. The Secretary shall notify the Board  
10 of any such appointment. The hearing officer has full authority  
11 to conduct the hearing. ~~At least one member of the Board shall~~  
12 ~~attend each hearing.~~ The hearing officer shall report his  
13 findings of fact, conclusions of law and recommendations to the  
14 Board and the Secretary. The Board has 60 days from receipt of  
15 the report to review it and present its findings of fact,  
16 conclusions of law and recommendations to the Secretary. If the  
17 Board fails to present its report within the 60 day period, the  
18 Secretary shall issue an order based on the report of the  
19 hearing officer. If the Secretary disagrees with the  
20 recommendation of the Board or hearing officer, the Secretary  
21 may issue an order in contravention of the recommendation. The  
22 Secretary shall promptly provide a written explanation to the  
23 Board on any disagreement.

24           (Source: P.A. 96-730, eff. 8-25-09.)

1           Section 25. The Professional Geologist Licensing Act is  
2 amended by changing Section 125 as follows:

3           (225 ILCS 745/125)

4           (Section scheduled to be repealed on January 1, 2016)

5           Sec. 125. Appointment of a hearing officer. The Director  
6 has the authority to appoint any attorney licensed to practice  
7 law in the State of Illinois to serve as the hearing officer in  
8 any action for refusal to issue, restore, or renew a person's  
9 license to practice as a Licensed Professional Geologist or to  
10 discipline a licensee. The hearing officer has full authority  
11 to conduct the hearing. ~~At least one member of the Board shall~~  
12 ~~attend each hearing.~~ The hearing officer shall report his or  
13 her findings of fact, conclusions of law, and recommendations  
14 to the Board and the Director. The Board shall have 60 calendar  
15 days from receipt of the report to review the report of the  
16 hearing officer and present its findings of fact, conclusions  
17 of law, and recommendations to the Director. If the Board does  
18 not present its report within the 60-day period, the Director  
19 may issue an order based on the report of the hearing officer.  
20 If the Director disagrees with the recommendation of the Board  
21 or of the hearing officer, the Director may issue an order in  
22 contravention of the recommendation. The Director shall  
23 promptly provide a written report to the Board on any  
24 deviation, and shall specify the reasons for the action in the

1 final order.

2 (Source: P.A. 96-1327, eff. 7-27-10.)

3 Section 99. Effective date. This Act takes effect upon  
4 becoming law.